

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN  
&  
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WA.No. 1403 of 2007()  
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AGAINST THE JUDGEMENT IN WPC.9427/2007 Dated 12/06/2007  
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APPELLANT: PETITIONER  
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P.J.JOSEPH,  
PUTHELATH HOUSE, DEVIKULAM P.O.

BY ADV. SMT.S.KARTHIKA  
SRI.M.S.UNNIKRISHNAN  
SMT.K.P.GEETHA MANI  
SRI.M.R.ANISON  
SRI.T.R.RAJESH

RESPONDENTS: RESPONDENTS  
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1. STATE OF KERALA, REP. BY ITS  
SECRETARY TO GOVT., HOME (C) DEPARTMENT,  
GOVT. SECRETARIAT, TRIVANDRUM.

2. THE HON'BLE HIGH COURT OF KERALA,  
REP. BY ITS REGISTRAR, ERNAKULAM.

BY GOVT. PLEADER SRI.BENNY GERVASIS FOR R1  
ADV. SRI.O.V.RADHAKRISHNAN (SR) FOR R2

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION  
ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**K.S.Radhakrishnan  
&  
Antony Dominic, JJ.**  
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**W.A.No.1403 of 2007**  
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**Dated this the 15<sup>th</sup> day of June, 2007.**

**JUDGMENT**

**Radhakrishnan,J.**

Appellant herein is functioning as Assistant Public Prosecutor Grade II. He has applied for the post of Munsiff-Magistrate in the Kerala Judicial Service. His application was not entertained on the ground that he was not an approved probationer in the post of Assistant Public Prosecutor. Petitioner has therefore approached this Court praying for a writ of certiorari to quash Clause 4(ii) of Ext.P3 to the extent of stipulating two years of experience in Assistant Public Prosecutor Grade I and II eligible criteria for the post. Petitioner submits that the Recruiting agency has no power to dilute the amended Recruitment Rules (Ext.P7), which notify the post.

2. Question that arises for consideration is as to whether the appellant is entitled to be considered for appointment by transfer without completing a period of two years of probation as Assistant Public Prosecutor Grade II. We are of the view that the prescribed period of service in the feeder category is an essential requirement for

a candidate for recruitment by way of transfer. Rule 5 Part II of the General Rules contains the general Rule regarding the method of recruitment. That Rule read with Rule 2(13) in Part I of the General Rules enjoins that a candidate can be recruited by transfer to a service only if his appointment to the service is in accordance with the Rules for recruitment by transfer and if at the time of his first appointment thereto, he is either a full member or an approved probationer in any other service, the Rules for which prescribe a period of probation for members thereof. Two years is the period of probation for an Assistant Public Prosecutor Grade II. Admittedly, petitioner is only a probationer in the category of Assistant Public Prosecutor Grade II. Since the petitioner has not satisfied with the above conditions, he is not entitled to be considered for appointment by transfer as Munsiff-Magistrate. Learned single Judge has rightly rejected the Writ Petition. We find no error in the view expressed by the learned single Judge.

Writ Appeal is dismissed.

K.S.Radhakrishnan,  
Judge.

Antony Dominic,  
Judge.